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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,301	11/19/2001	Matti Puputti	4208-4060	9503
27123	7590	08/06/2008		
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			EXAMINER CHOWDHURY, SUMAIYA A	
			ART UNIT	PAPER NUMBER
			2623	
			NOTIFICATION DATE	DELIVERY MODE
			08/06/2008	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOPatentCommunications@Morganfinnegan.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 09/989,301	<b>Applicant(s)</b> PUPUTTI, MATTI	
	<b>Examiner</b> SUMAIYA A. CHOWDHURY	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17, 18, 21-32 and 46-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17, 18, 21-32 and 46-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 4/30/08 have been fully considered but they are not persuasive.

(a) Applicant argues Bryant does not teach transports stream portions, but rather program segments, on page 3 of the Remarks, filed 4/30/08.

Referring to col. 4, lines 20-47, Bryant discloses at the head-end, the composite broadcast signal 300 is created. The composite broadcast signal includes first and second program segment 310 and 320. The Examiner is interpreting each program segment to be a portion on the transport stream.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 17, 18, 21, 22, 24, 26-32, 46-49, 51, and 53-56, are rejected under 35 U.S.C. 103(a) as being unpatentable over Kessler in view of Bryant (5652615)

As for claims 17, 30, 31, Kessler discloses:

Means/transmitter (headend) for transmitting, to an end user terminal (fig. 1) a service (program) having a control channel (system control data) over a first transport stream, in accordance with a first configuration parameter (PID) of the service stored by the end user terminal, in which the control channel is identified with the first transport stream – (A program map table (PMT) including PIDs is transmitted to the client end. The PMT contains information about the programs. The program includes content data and system control data. col. 3, lines 26-50);

Means/processor (headend) for generating and transmitting a second configuration parameter (subsequent system control data transmitted in updated PMT version) to the end user without receiving interactive information from the end user terminal, the second configuration parameter identifying the control channel with a second transport stream – (The updated PMT is received without user interaction – col. 8, lines 33-67); and

Means (headend) for transmitting the service to the end user terminal over the second transport stream – (The program is now transmitted in accordance with the updated PMT – col. 8, lines 33-67, col. 3, lines 26-50).

However, Kessler fails to teach transmitting a service over a first portion and a second portion of a transport stream.

In an analogous art, Bryant teaches switching to a commercial after a first portion of a transport stream is displayed, and then switching back to the transport stream after the commercial is displayed. Referring to Fig. 8, segment A is displayed, and then

commercial segments C and D are displayed. Thereafter, the stream is switched back to the continuation of segment A (Fig. 8, col. 8, lines 27-55).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Kessler's invention to include the above mentioned limitation, as taught by Bryant, in order to allow a broadcaster a certain amount of control of the composite programs that are delivered to the customer. In one scenario, a broadcaster wishing to reach different target audiences may separately identify and broadcast programs.

As for claims 18 and 47, Kessler discloses wherein the network is a digital video broadcasting network – col. 3, lines 20-25.

As for claims 21 and 48, Kessler discloses wherein the second configuration parameter comprises data allowing the end user terminal to access the service (The second configuration parameter is in the updated PMT which includes the new PID value which is required to access the service – col. 3, lines 25-30, lines 42-50).

As for claims 22 and 49, Kessler discloses wherein the service comprises television programs – (col. 3, lines 20-30).

As for claims 24 and 51, Kessler discloses wherein said transmitting the second configuration parameter further comprises: generating the second configuration – (updated PMT; col. 3, lines 25-30, lines 42-50).

As for claims 26 and 53, Bryant teaches wherein the second configuration parameter includes a program identifier of the service transmitted in the second portion of the transport stream (col. 7, lines 36-50).

As for claims 27 and 54, Kessler discloses wherein the service comprises a plurality of services from a plurality of service providers (Satellite TV and CATV receive TV programs from plural service providers such as CNN, FOX, NBC, CBS, etc. – col. 3, lines 22-25).

As for claims 28 and 55, Kessler discloses wherein the first configuration parameter (PID) comprises at least one parameter corresponding to addressing information for the service (col. 3, lines 36-50).

As for claims 29 and 56, Kessler discloses wherein the second configuration parameter (updated PID) comprises at least one parameter corresponding to addressing for the service (col. 3, lines 36-50).

Claim 32 contains the limitations of claim 17, 30 and 31 and is analyzed as previously discussed with respect to those claims.

Claim 46 contains the limitations of claim 17, and 30 -32 and is analyzed as previously discussed with respect to those claims.

4. Claims 23 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kessler and Bryant as applied to claim 17 above, and further in view of Levitan (US 2002/0147769).

As for claims 23 and 50, Kessler and Bryant fail to disclose wherein the service is an Internet Protocol-based service.

In an analogous art, Levitan discloses wherein the service is an Internet Protocol-based service – [0021] and [0023].

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Kessler and Bryant's invention to include the above

mentioned limitation, as taught by Levitan, for the advantage of using the major standard that enables information exchange between computers.

5. Claims 25 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kessler and Bryant as applied to claim 17 above, and further in view of Park.

As for claims 25 and 52, Kessler and Bryant fail to disclose selecting the second portion of the transport stream based on bandwidth of the first and second transport stream.

In an analogous art, Park teaches selecting either the first or second stream according to the bandwidth in order to conserve bandwidth – (see Abstract, col. 2, lines 36-41, lines 52-56, col. 9, lines 7-10, col. 10, lines 46-51).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Kessler and Bryant's invention to include the above mentioned limitation, as taught by Park, for the advantage of conserving bandwidth.



***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUMAIYA A. CHOWDHURY whose telephone number is (571)272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/  
Supervisory Patent Examiner, Art Unit 2623

/Sumaiya A Chowdhury/  
Examiner, Art Unit 2623